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SUBJECT: PREPARATION OF 2007 NATIONAL TRADE ESTIMATE REPORT

REF: SECSTATE 136302

11. TRADE SUMMARY: The U.S. trade deficit with Cote d'Ivoire was \$1.1 billion in 2005, an increase of \$477 million from \$597 million in 2004. U.S. goods exports in 2005 were \$124 million, up 4.9 percent from the previous year. Corresponding U.S. imports from Cote d'Ivoire were \$1.2 billion, up 67.6 percent. Cote d'Ivoire is currently the 119th largest export market for U.S. goods. The stock of U.S. foreign direct investment (FDI) in Cote d'Ivoire in 2004 was \$247 million, up from \$215 million in 2003. Cote d'Ivoire's international trade patterns) especially those involving trade in the West African region) have been significantly affected by the political instability and civil unrest that have gripped the country in the last few years.

12. IMPORT POLICIES: Cote d'Ivoire is a member of the WTO, the West African Economic and Monetary Union (known by its French acronym, UEMOA), and the Economic Community of West African States (ECOWAS). In January 2000, Cote d'Ivoire eliminated tariffs on imports from the eight member countries of UEMOA when UEMOA's Common External Tariff (CET) entered into effect. Imports from all other countries are subject to tariffs based on the CET schedule of five percent for raw materials and inputs for local manufacture, 10 percent for semi-finished goods, and 20 percent for finished products. In 2004, UEMOA suspended its practice of temporary duty-free status for imported goods destined for another country in the zone. This change means that goods entering UEMOA from non-member countries may no longer transit a UEMOA country duty-free en route to their final destination. Duties are now assessed at the first port of entry.

A one percent statistical fee is levied on the CIF (cost, insurance, and freight) value of imports except those destined for re-export, transit, or donations for humanitarian purposes under international agreements. Another tax on imports into Cote d'Ivoire is a one percent community levy (solidarity tax) on the CIF value, which goes to a compensation fund to assist WAEMU members, such as landlocked Niger, Burkina Faso and Mali, which suffered from revenues losses due to the implementation of the CET. There are special taxes on fish (between 5 and 20 percent), rice (between 5 percent and 10 percent based on category), alcohol (45 percent), tobacco (between 5 and 20 percent), cigarettes (between 30 and 35 percent), certain textile products (20 percent), and petroleum products (between 5 and 20 percent). These special taxes are designed to protect national industries. The Customs office collects a value added tax (VAT) of 18 percent on all imports, reduced from 20 percent in 2003. This tax computation is calculated on the CIF value added to the duty and the statistical fee. Cote d'Ivoire continues to apply minimum import prices (MIPs) to imports of certain products such as cooking oil, cigarettes, sugar, used clothes, concentrated tomato, broken rice, matches, copybook, tissues, polypropylene sacks, alcohol and milk, though the WTO waiver it once had allowing it to apply MIPs on some products has long since expired.

There are no quotas on merchandise imports, although the following items are subject to import prohibitions, restrictions, or prior authorization: petroleum products, animal products, live plants, seeds, arms and munitions, plastic bags, distilling equipment, pornography, saccharin, narcotics, explosives, illicit drugs, and toxic waste. Textile imports are subject to some authorization requirements by the Department of External Trade.

Rules governing the handling of imported toxic waste were apparently ignored in the September 2006 incident involving the illegal dumping of several hundred tons of toxic waste unloaded by an Ivorian company from a foreign vessel in the environs of the capital city Abidjan, which according to official figures left ten dead and thousands ill.

13. STANDARDS, TESTING, LABELING AND CERTIFICATION: All items imported into Cote d'Ivoire must have a certificate of compliance to clear customs. Two European companies, BIVAC, affiliated to the French group Bureau Veritas and the Swiss firm Cotecna are contracted to carry out all qualitative and quantitative verifications of goods imported into Cote d'Ivoire with a value exceeding CFA 1.5 million (USD 3,000). All merchandise packaging must be clearly labeled as to its origin. Manufactured food products must be labeled in French and have an expiration date. Standards generally follow French or European norms.

14. GOVERNMENT PROCUREMENT: The government of Cote d'Ivoire regularly and periodically issues notices of procurement tenders in the local press, in the form of documentation sent to the U.S. Embassy, or sometimes published in international magazines and newspapers. On occasion, there is a charge for the bidding documents. The implementing agency is usually

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the ministry making the request or the ministry under whose tutelage the office functions. The Bureau National d'Etudes Techniques et de Developpement (BNETD), the government's technical and investment planning agency and think tank, sometimes serves as an executing agency representing ministries for major projects to be financed by international institutions.

In 2005, the Ministry of Finance introduced institutional changes in the new public procurement code such as: decentralizing operations, building greater transparency in the system, creating of commissions in charge of examining out-of-the-norm procurements, imposing stricter internal management controls and establishing an appeals process.

The government has created the Direction des Marches Publics⁸ (DMP), a centralized office of public bids in the Ministry of Finance to help ensure compliance with international bidding practices. While theoretically the office is functioning and the procurement process is open, some well-entrenched foreign companies, through their relations with government officials, may retain a preferred position in securing bid awards. Many firms continue to see corruption as an obstacle that affects procurement decisions. Cote d'Ivoire is not a signatory to the WTO Agreement on Government Procurement.

5: SERVICES BARRIERS: Banks and insurance companies are subject to licensing requirements, but there are no restrictions on foreign ownership or establishment of subsidiaries. Foreign participation is widespread in computer services, education, and training. Prior approval is required for foreign investment in the health sector, travel agencies, and law and accounting firms; majority foreign ownership of companies in these sectors is not permitted, though foreign companies currently operate in all these sectors in partnership with local firms and with government permission. While one U.S. bank, Citibank, is currently operating in Cote d'Ivoire, American insurance and reinsurance companies are not present in the Ivorian market.

Cote d'Ivoire does not formally require majority Ivorian ownership in most sectors other than those noted above. There are professional associations such as legal and accountancy associations that serve to regulate professional services which require Ivorian nationality. For example, there are restrictions on the registration of foreign nationals by the accountants, association, unless they have already been practicing in Cote d'Ivoire for several years under the license of an Ivorian practitioner. In the case of legal services, Cote d'Ivoire distinguishes between providing legal advice and practicing law in court. The former is liberalized, but to be admitted to the Ivorian bar and practice in a courtroom, lawyers must be accredited by the Ivorian lawyers, association which requires Ivorian nationality.

16. INVESTMENT BARRIERS: The government encourages foreign investment, but in recent years political instability has substantially undermined investor confidence. The negative effects of the 1999 coup d'etat, the ensuing 10-month military rule, and the upheavals surrounding the elections in October 2000 had not dissipated when an attempted coup d'etat that turned into a civil war occurred in September 2002. In November 2004, many (particularly foreign-owned) businesses were destroyed and looted, further dampening near-term investment prospects. Ongoing efforts at national reconciliation have had limited progress, but there has been no resolution of the crisis. There has been no progress on privatization since 2002.

The Ivorian investment code provides tax incentives for investments higher than \$1 million, as well as land concessions for projects. Concessionary agreements, which would exempt investors from tax regulations, require the additional approval of the Ministry of Finance and Economy and the Ministry of Industry, making the clearance procedure for planned investments, if tax breaks are sought, time-consuming and confusing. The Center for the Promotion of Investment in Cote d'Ivoire (CEPICI) was established to act as a one-stop shop for investment to help alleviate this problem. Even when companies have complied fully with the requirements, tax exemptions are sometimes denied with little explanation, giving rise to accusations of favoritism and corruption.

In August 2006, the government instituted new rules governing the rebate of VAT for companies that export more than 70% of their production, such as multinational cocoa purchasing-and-export companies. Qualifying companies will now be subject to initial VAT collections on all their purchases, both local and imported, vs. simply imported goods as previously. VAT rebates will be delayed 12) 36 months.

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The result is that qualifying companies will see a three or four fold increase in their VAT payments and a significant slowdown in already-slow reimbursements.

17. INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION: The Ivorian Civil Code protects the acquisition and disposition of intellectual property rights. Legal protection for intellectual property may fall short of TRIPS standards due in part to lack of customs checks in rebel-held Western and Northern border areas, which does not allow law enforcement action on trade of counterfeit textiles, pharmaceuticals and vehicle parts. Cote d'Ivoire is a party to the Paris Convention for the Protection of Industrial Property, its 1958 revision, and the 1977 Bangui Agreement covering 16 Francophone African countries in the African Intellectual Property Organization (OAPI). Effective February 2002, changes were made to the Bangui Agreement in an effort to bring it into conformity with TRIPS. Under OAPI, rights registered in one member country are valid for other member states. Patents are valid for ten years, with the

possibility of two five-year extensions. Trademarks are valid for ten years and are renewable indefinitely. Copyrights are valid for 50 years.

In 2001, Ivorian experts drafted a new law in an effort to bring Cote d'Ivoire into conformity with TRIPS. The new law adds specific protection for computer programs, databases, and authors, rights with regard to rented films and videos. However, the National Assembly has not yet approved this legislation and will likely not take action until political ambiguities concerning the Assembly's term of office are clarified. The Assembly's mandate expired at the end of 2005 and new legislative elections are effectively on hold until the political reconciliation process moves forward.

The government's Office of Industrial Property is charged with ensuring the protection of patents, trademarks, industrial designs, and commercial names. The office faces an array of challenges, including inadequate resources, lack of political will, and the distraction of the ongoing political crisis. As a result, enforcement of IPR is largely ineffective. Foreign companies, especially from East and South Asia, flood the Ivorian market with all types of counterfeit goods. Government efforts to combat piracy are modest. The Ivorian Office of Authors, Rights (BURIDA), established in 1998, has established a new sticker system, effective January 2004, to protect audio, video, literary and artistic property rights in music and computer programs. BURIDA's operations were hampered by a long-running dispute between management and board members over policy and leadership issues, specifically with regard to who should direct the agency. To resolve the crisis at BURIDA, in March of 2006 the Minister of Culture invoked a ministerial bylaw to establish a temporary administration and a commission to study and propose a global reform of this organization. Despite the ongoing management issue, the agency does help to promote IPR enforcement with lawyers and magistrates.

18. ELECTRONIC COMMERCE: Electronic commerce is in its very early stages in Cote d'Ivoire but is expected to grow over time. There are a number of cultural barriers to growth, including the custom of paying with cash and the absence of widespread issuance and use of credit cards. Despite these barriers, individuals and businesses have begun experimenting with electronic commerce, and interest in the medium continues to gain ground. Hotels, restaurants, retail outlets and travel agencies are developing the use of credit cards. Banks also have started implementation of telephone, Internet and SMS banking in addition to ATMs services. Citibank, for example, offers an international e-banking platform to all clients world-wide, a feature that has helped them to retain clientele in Abidjan and attract new customers. Effective August 3, 2006, the West African Central Bank, & Banque Centrale des tats de l'Afrique de l'Ouest, (BCEAO) established the inter-bank automated payment system to reduce delays in bank settlement operations. Small and medium-sized businesses continue to explore electronic commerce, and interest in the medium continues to gain ground.

19. OTHER BARRIERS: Many U.S. companies view corruption as an obstacle to investment in Cote d'Ivoire. Corruption has the greatest impact on judicial proceedings, contract awards, customs, and tax issues. It is common for judges who are open to financial influence to disort the merits of a case. Corruption and the recent political crisis have affected the Ivorian government's ability to attract and retain foreign investment. Some U.S. investors have raised specific concerns about the rule of law and the government's ability to provide equal protection under the law. In 1997, the government of Cote d'Ivoire authorized the creation of an arbitration court, the Joint Court of Justice and

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Arbitration, which is a member of the regional arbitration board known as the Organization for the Harmonization of

Business Law in Africa (OHADA). Since then, however, the court has examined 45 cases (only five in 2005). In July 2004, the governing body was strengthened with the added participation of local Chambers of Commerce, and the rules governing enforcement of arbitral awards were modified to allow for a quicker enforcement of awards. The business community has welcomed the 2004 revisions and the Arbitration Board has acted effectively as an alternative vehicle for timely business dispute resolution. In addition to its local arbitration board, Cote d'Ivoire is a member of the International Center for the Settlement of Investment Disputes.

¶10. ESTIMATED COST OF TRADE BARRIERS. Post conferred with relevant U.S. businesses engaged in business in Cote d'Ivoire in an attempt to estimate the value of existing trade barriers, and they were unable to provide meaningful approximations. The nature of trade barriers in Cote d'Ivoire also makes it difficult for Post to provide a global estimate for the overall costs of trade barriers.
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